

**ASSEMBLY BILL**

**No. 2912**

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**Introduced by Committee on Natural Resources**

March 15, 2016

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An act to amend Section 5654 of the Fish and Game Code, and to amend Sections 8670.3, 8670.25.5, 8670.27, 8670.29, 8670.31, 8670.37.58, 8670.54, 8670.56.5, 8670.56.6, and 8670.59 of the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 2912, as introduced, Committee on Natural Resources. Oil spills.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup. The act requires each owner or operator of a tank vessel, nontank vessel carrying oil as a secondary cargo, or facility to submit, upon request of the administrator, a copy of a federally approved oil spill response plan at the time of approval of the plan.

This bill would instead require each owner or operator of a tank vessel, nontank vessel, vessel carrying oil as a secondary cargo, or facility to submit, upon request of the administrator, a copy of a federally approved oil spill response plan at the time of approval of the plan. The bill also would make nonsubstantive changes to these and other provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 5654 of the Fish and Game Code is amended to read:

5654. (a) (1) Notwithstanding Section 7715 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in ~~subdivision (a)~~ of Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

(2) Closure pursuant to paragraph (1) is not required if, within 24 hours of notification of a spill or discharge, the Office of Environmental Health Hazard Assessment finds that a public health threat does not or is unlikely to exist.

(b) Within 48 hours of notification of a spill or discharge subject to subdivision (a), the director, in consultation with the Office of Environmental Health Hazard Assessment, shall make an assessment and determine all of the following:

(1) The danger posed to the public from fishing in the area where the spill or discharge occurred or spread, and the danger of consuming fish taken in the area where the spill or discharge occurred or spread.

(2) Whether the areas closed for the take of fish or shellfish should be expanded to prevent any potential take or consumption of any fish or shellfish that may have been contaminated by the spill or discharge.

(3) The likely period for maintaining a closure on the take of fish and shellfish in order to prevent any possible contaminated

1 fish or shellfish from being taken or consumed or other threats to  
2 human health.

3 (c) Within 48 hours after receiving notification of a spill or  
4 discharge subject to subdivision (a), or as soon as is feasible, the  
5 director, in consultation with the Office of Environmental Health  
6 Hazard Assessment, shall assess and determine the potential danger  
7 from consuming fish that have been contained in a recirculating  
8 seawater tank onboard a vessel that may become contaminated by  
9 the vessel's movement through an area where the spill or discharge  
10 occurred or spread.

11 (d) If the director finds in his or her assessment pursuant to  
12 subdivision (b) that there is no significant risk to the public or to  
13 the fisheries, the director may immediately reopen the closed area  
14 and waive the testing requirements of subdivisions (e) and (f).

15 (e) Except under the conditions specified in subdivision (d),  
16 after complying with subdivisions (a) and (b), the director, in  
17 consultation with the Office of Environmental Health Hazard  
18 Assessment, but in no event more than seven days from the  
19 notification of the spill or discharge, shall order expedited tests of  
20 fish and shellfish that would have been open for take for  
21 commercial, recreational, or subsistence purposes in the closed  
22 area if not for the closure, to determine the levels of contamination,  
23 if any, and whether the fish or shellfish is safe for human  
24 consumption.

25 (f) (1) Within 24 hours of receiving a notification from the  
26 Office of Environmental Health Hazard Assessment that no threat  
27 to human health exists from the spill or discharge or that no  
28 contaminant from the spill or discharge is present that could  
29 contaminate fish or shellfish, the director shall reopen the areas  
30 closed pursuant to this section. The director may maintain a closure  
31 in any remaining portion of the closed area where the Office of  
32 Environmental Health Hazard Assessment finds contamination  
33 from the spill or discharge persists that may adversely affect human  
34 health.

35 (2) The director, in consultation with the commission, may also  
36 maintain a closure in any remaining portion of the closed area  
37 where commercial fishing or aquaculture occurs and where the  
38 department determines, pursuant to this paragraph, that  
39 contamination from the spill or discharge persists that may cause

1 the waste of commercial fish or shellfish as regulated by Section  
2 7701.

3 (g) To the extent feasible, the director shall consult with  
4 representatives of commercial and recreational fishing associations  
5 and subsistence fishing communities regarding the extent and  
6 duration of a closure, testing protocols, and findings. If a spill or  
7 discharge occurs within the lands governed by a Native American  
8 tribe or affects waters flowing through tribal lands, or tribal  
9 fisheries, the director shall consult with the affected tribal  
10 governments.

11 (h) The director shall seek full reimbursement from the  
12 responsible party or parties for the spill or discharge for all  
13 reasonable costs incurred by the department in carrying out this  
14 section, including, but not limited to, all testing.

15 SEC. 2. Section 8670.3 of the Government Code is amended  
16 to read:

17 8670.3. Unless the context requires otherwise, the following  
18 definitions shall govern the construction of this chapter:

19 (a) "Administrator" means the administrator for oil spill response  
20 appointed by the Governor pursuant to Section 8670.4.

21 (b) (1) "Best achievable protection" means the highest level of  
22 protection that can be achieved through both the use of the best  
23 achievable technology and those manpower levels, training  
24 procedures, and operational methods that provide the greatest  
25 degree of protection achievable. The administrator's determination  
26 of which measures provide the best achievable protection shall be  
27 guided by the critical need to protect valuable natural resources  
28 and state waters, while also considering all of the following:

29 (A) The protection provided by the measure.

30 (B) The technological achievability of the measure.

31 (C) The cost of the measure.

32 (2) The administrator shall not use a cost-benefit or  
33 cost-effectiveness analysis or any particular method of analysis in  
34 determining which measures provide the best achievable protection.  
35 The administrator shall instead, when determining which measures  
36 provide best achievable protection, give reasonable consideration  
37 to the protection provided by the measures, the technological  
38 achievability of the measures, and the cost of the measures when  
39 establishing the requirements to provide the best achievable  
40 protection for the natural resources of the state.

1 (c) (1) “Best achievable technology” means that technology  
2 that provides the greatest degree of protection, taking into  
3 consideration both of the following:

4 (A) Processes that are being developed, or could feasibly be  
5 developed anywhere in the world, given overall reasonable  
6 expenditures on research and development.

7 (B) Processes that are currently in use anywhere in the world.

8 (2) In determining what is the best achievable technology  
9 pursuant to this chapter, the administrator shall consider the  
10 effectiveness and engineering feasibility of the technology.

11 (d) “California oil spill contingency plan” means the California  
12 oil spill contingency plan prepared pursuant to Article 3.5  
13 (commencing with Section 8574.1) of Chapter 7.

14 (e) “Dedicated response resources” means equipment and  
15 personnel committed solely to oil spill response, containment, and  
16 cleanup that are not used for any other activity that would adversely  
17 affect the ability of that equipment and personnel to provide oil  
18 spill response services in the timeframes for which the equipment  
19 and personnel are rated.

20 (f) “Environmentally sensitive area” means an area defined  
21 pursuant to the applicable area contingency plans or geographic  
22 response plans, as created and revised by the Coast Guard, the  
23 United States Environmental Protection Agency, and the  
24 administrator.

25 (g) (1) “Facility” means any of the following located in state  
26 waters or located where an oil spill may impact state waters:

27 (A) A building, structure, installation, or equipment used in oil  
28 exploration, oil well drilling operations, oil production, oil refining,  
29 oil storage, oil gathering, oil processing, oil transfer, oil  
30 distribution, or oil transportation.

31 (B) A marine terminal.

32 (C) A pipeline that transports oil.

33 (D) A railroad that transports oil as cargo.

34 (E) A drill ship, semisubmersible drilling platform, jack-up type  
35 drilling rig, or any other floating or temporary drilling platform.

36 (2) “Facility” does not include any of the following:

37 (A) A vessel, except a vessel located and used for any purpose  
38 described in subparagraph (E) of paragraph (1).

(B) An owner or operator subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(C) Operations on a farm, nursery, logging site, or construction site that are either of the following:

(i) Do not exceed 20,000 gallons in a single storage tank.

(ii) Have a useable tank storage capacity not exceeding 75,000 gallons.

(D) A small craft refueling dock.

(h) "Local government" means a chartered or general law city, a chartered or general law county, or a city and county.

(i) (1) "Marine terminal" means any facility used for transferring oil to or from a tank ship or tank barge.

(2) "Marine terminal" includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (n) of Section 25270.2 of the Health and Safety Code.

(j) "Mobile transfer unit" means a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact waters of the state.

(k) "Nondedicated response resources" means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

(l) "Nonpersistent oil" means a petroleum-based oil, such as gasoline or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.

(m) "Nontank vessel" means a vessel of 300 gross tons or greater that carries oil, but does not carry that oil as cargo.

(n) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(o) "Oil spill cleanup agent" means a chemical, or any other substance, used for removing, dispersing, or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

1 (p) “Oil spill contingency plan” or “contingency plan” means  
2 the oil spill contingency plan required pursuant to Article 5  
3 (commencing with Section 8670.28).

4 (q) (1) “Oil Spill Response Organization” or “OSRO” means  
5 an individual, organization, association, cooperative, or other entity  
6 that provides, or intends to provide, equipment, personnel, supplies,  
7 or other services directly related to oil spill containment, cleanup,  
8 or removal activities.

9 (2) “OSRO” does not include an owner or operator with an oil  
10 spill contingency plan approved by the administrator or an entity  
11 that only provides spill management services, or who provides  
12 services or equipment that are only ancillary to containment,  
13 cleanup, or removal activities.

14 (r) (1) “Owner” or “operator” means any of the following:

15 (A) In the case of a vessel, a person who owns, has an ownership  
16 interest in, operates, charters by demise, or leases the vessel.

17 (B) In the case of a facility, a person who owns, has an  
18 ownership interest in, or operates the facility.

19 (C) Except as provided in subparagraph (D), in the case of a  
20 vessel or facility, where title or control was conveyed due to  
21 bankruptcy, foreclosure, tax delinquency, abandonment, or similar  
22 means to an entity of state or local government, a person who  
23 owned, held an ownership interest in, operated, or otherwise  
24 controlled activities concerning the vessel or facility immediately  
25 beforehand.

26 (D) An entity of the state or local government that acquired  
27 ownership or control of a vessel or facility, when the entity of the  
28 state or local government has caused or contributed to a spill or  
29 discharge of oil into waters of the state.

30 (2) “Owner” or “operator” does not include a person who,  
31 without participating in the management of a vessel or facility,  
32 holds indicia of ownership primarily to protect the person’s security  
33 interest in the vessel or facility.

34 (3) “Operator” does not include a person who owns the land  
35 underlying a facility or the facility itself if the person is not  
36 involved in the operations of the facility.

37 (s) “Person” means an individual, trust, firm, joint stock  
38 company, or corporation, including, but not limited to, a  
39 government corporation, partnership, and association. “Person”  
40 also includes a city, county, city and county, district, and the state

1 or any department or agency thereof, and the federal government,  
2 or any department or agency thereof, to the extent permitted by  
3 law.

4 (t) “Pipeline” means a pipeline used at any time to transport oil.

5 (u) “Railroad” means a railroad, railway, rail car, rolling stock,  
6 or train.

7 (v) “Rated OSRO” means an OSRO that has received a  
8 satisfactory rating from the administrator for a particular rating  
9 level established pursuant to Section 8670.30.

10 (w) *“Response efforts” means rendering care, assistance, or*  
11 *advice in accordance with the National Contingency Plan, the*  
12 *California oil spill contingency plan, or at the direction of the*  
13 *administrator, the United States Environmental Protection Agency,*  
14 *or the United States Coast Guard in response to a spill or a*  
15 *threatened spill into waters of the state.*

16 ~~(w)~~

17 (x) “Responsible party” or “party responsible” means any of  
18 the following:

19 (1) The owner or transporter of oil or a person or entity accepting  
20 responsibility for the oil.

21 (2) The owner, operator, or lessee of, or a person that charters  
22 by demise, a vessel or facility, or a person or entity accepting  
23 responsibility for the vessel or facility.

24 ~~(x)~~

25 (y) “Small craft” means a vessel, other than a tank ship or tank  
26 barge, that is less than 20 meters in length.

27 ~~(y)~~

28 (z) “Small craft refueling dock” means a waterside operation  
29 that dispenses only nonpersistent oil in bulk and small amounts of  
30 persistent lubrication oil in containers primarily to small craft and  
31 meets both of the following criteria:

32 (1) Has tank storage capacity not exceeding 20,000 gallons in  
33 any single storage tank or tank compartment.

34 (2) Has total usable tank storage capacity not exceeding 75,000  
35 gallons.

36 ~~(z)~~

37 (aa) “Small marine fueling facility” means either of the  
38 following:

39 (1) A mobile transfer unit.



(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

~~(aa)~~

~~(ab)~~ “Spill,” “discharge,” or “oil spill” means a release of any amount of oil into waters of the state that is not authorized by a federal, state, or local government entity.

~~(ab)~~

~~(ac)~~ “Tank barge” means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

~~(ae)~~

~~(ad)~~ “Tank ship” means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

~~(ae)~~

~~(ae)~~ “Tank vessel” means a tank ship or tank barge.

~~(ae)~~

~~(af)~~ “Vessel” means a watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

~~(af)~~

~~(ag)~~ “Vessel carrying oil as secondary cargo” means a vessel that does not carry oil as a primary cargo, but does carry oil as cargo. The administrator may establish minimum oil volume amounts or other criteria by regulations.

~~(ag)~~

~~(ah)~~ “Waters of the state” or “state waters” means any surface water, including saline waters, marine waters, and freshwaters, within the boundaries of the state but does not include groundwater.

1 SEC. 3. Section 8670.25.5 of the Government Code is amended  
2 to read:

3 8670.25.5. (a) (1) Without regard to intent or negligence, any  
4 party responsible for the discharge or threatened discharge of oil  
5 in waters of the state shall report the discharge immediately to the  
6 Office of Emergency Services pursuant to Section 25510 of the  
7 Health and Safety Code.

8 (2) If the information initially reported pursuant to paragraph  
9 (1) was inaccurate or incomplete, or if the quantity of oil discharged  
10 has changed, any party responsible for the discharge or threatened  
11 discharge of oil in waters of the state shall report the updated  
12 information immediately to the Office of Emergency Services  
13 pursuant to paragraph (1). The report shall contain the accurate or  
14 complete information, or the revised quantity of oil discharged.

15 (b) Immediately upon receiving notification pursuant to  
16 subdivision (a), the Office of Emergency Services shall notify the  
17 administrator, the State Lands Commission, the California Coastal  
18 Commission, the California regional water quality control board  
19 having jurisdiction over the location of the discharged oil, and the  
20 appropriate local governmental agencies in the area surrounding  
21 the discharged oil, and take the actions required by subdivision  
22 (d) of Section 8589.7. If the spill has occurred within the  
23 jurisdiction of the San Francisco Bay Conservation and  
24 Development Commission, the Office of Emergency Services shall  
25 notify that commission. Each public agency specified in this  
26 subdivision shall adopt an internal protocol over communications  
27 regarding the discharge of oil and file the internal protocol with  
28 the Office of Emergency Services.

29 (c) The 24-hour emergency telephone number of the Office of  
30 Emergency Services shall be posted at every railroad dispatch,  
31 pipeline operator control center, ~~and~~ marine terminal, ~~at the~~ area  
32 of control of every ~~marine~~ other facility, and on the bridge of every  
33 tank ship in marine waters.

34 (d) Except as otherwise provided in this section and Section  
35 8589.7, a notification made pursuant to this section shall satisfy  
36 any immediate notification requirement contained in any permit  
37 issued by a permitting agency.

38 SEC. 4. Section 8670.27 of the Government Code is amended  
39 to read:

1 8670.27. (a) (1) All potentially responsible parties for an oil  
2 spill and all of their agents and employees and all state and local  
3 agencies shall carry out response and cleanup operations in  
4 accordance with the applicable contingency plan, unless directed  
5 otherwise by the ~~administrator or the Coast Guard~~; *administrator;*  
6 *the United States Coast Guard, or the United States Environmental*  
7 *Protection Agency.*

8 (2) Except as provided in subdivision (b), the responsible party,  
9 potentially responsible parties, their agents and employees, the  
10 operators of all vessels docked at a marine facility that is the source  
11 of a discharge, and all state and local agencies shall carry out spill  
12 response consistent with the California oil spill contingency plan  
13 or other applicable federal, state, or local spill response plans, and  
14 owners and operators shall carry out spill response consistent with  
15 their applicable response contingency plans, unless directed  
16 otherwise by the ~~administrator or the Coast Guard~~; *administrator;*  
17 *the United States Coast Guard, or the United States Environmental*  
18 *Protection Agency.*

19 (b) If a responsible party or potentially responsible party  
20 reasonably, and in good faith, believes that the directions or orders  
21 given by the administrator pursuant to subdivision (a) will  
22 substantially endanger the public safety or the environment, the  
23 party may refuse to act in compliance with the orders or directions  
24 of the administrator. The responsible party or potentially  
25 responsible party shall state, at the time of the refusal, the reasons  
26 why the party refuses to follow the orders or directions of the  
27 administrator. The responsible party or potentially responsible  
28 party shall give the administrator written notice of the reasons for  
29 the refusal within 48 hours of refusing to follow the orders or  
30 directions of the administrator. In any civil or criminal proceeding  
31 commenced pursuant to this section, the burden of proof shall be  
32 on the responsible party or potentially responsible party to  
33 demonstrate, by clear and convincing evidence, why the refusal  
34 to follow the orders or directions of the administrator was justified  
35 under the circumstances.

36 SEC. 5. Section 8670.29 of the Government Code is amended  
37 to read:

38 8670.29. (a) In accordance with the rules, regulations, and  
39 policies established by the administrator pursuant to Section  
40 8670.28, an owner or operator of a facility, small marine fueling

1 facility, or mobile transfer unit, or an owner or operator of a tank  
2 vessel, nontank vessel, or vessel carrying oil as secondary cargo,  
3 while operating in the waters of the state or where a spill could  
4 impact waters of the state, shall have an oil spill contingency plan  
5 that has been submitted to, and approved by, the administrator  
6 pursuant to Section 8670.31. An oil spill contingency plan shall  
7 ensure the undertaking of prompt and adequate response and  
8 removal action in case of a spill, shall be consistent with the  
9 California oil spill contingency plan, and shall not conflict with  
10 the National Oil and Hazardous Substances Pollution Contingency  
11 Plan (NCP).

12 (b) An oil spill contingency plan shall, at a minimum, meet all  
13 of the following requirements:

14 (1) Be a written document, reviewed for feasibility and  
15 executability, and signed by the owner or operator, or his or her  
16 designee.

17 (2) Provide for the use of ~~an~~ *a recognized* incident command  
18 system to be used during a spill.

19 (3) Provide procedures for reporting oil spills to local, state,  
20 and federal agencies, and include a list of contacts to call in the  
21 event of a drill, threatened spill, or spill.

22 (4) Describe the communication plans to be used during a spill,  
23 if different from those used by a recognized incident command  
24 system.

25 (5) Describe the strategies for the protection of environmentally  
26 sensitive areas.

27 (6) Identify at least one rated OSRO for each rating level  
28 established pursuant to Section 8670.30. Each identified rated  
29 OSRO shall be directly responsible by contract, agreement, or  
30 other approved means to provide oil spill response activities  
31 pursuant to the oil spill contingency plan. A rated OSRO may  
32 provide oil spill response activities individually, or in combination  
33 with another rated OSRO, for a particular owner or operator.

34 (7) Identify a qualified individual.

35 (8) Provide the name, address, and telephone and facsimile  
36 numbers for an agent for service of process, located within the  
37 state and designated to receive legal documents on behalf of the  
38 owner or operator.

1 (9) Provide for training and drills on elements of the plan at  
2 least annually, with all elements of the plan subject to a drill at  
3 least once every three years.

4 (c) An oil spill contingency plan for a vessel shall also include,  
5 but is not limited to, all of the following requirements:

6 (1) The plan shall be submitted to the administrator at least  
7 seven days prior to the vessel entering waters of the state.

8 (2) The plan shall provide evidence of compliance with the  
9 International Safety Management Code, established by the  
10 International Maritime Organization, as applicable.

11 (3) If the oil spill contingency plan is for a tank vessel, the plan  
12 shall include both of the following:

13 (A) The plan shall specify oil and petroleum cargo capacity.

14 (B) The plan shall specify the types of oil and petroleum cargo  
15 carried.

16 (4) If the oil spill contingency plan is for a nontank vessel, the  
17 plan shall include both of the following:

18 (A) The plan shall specify the type and total amount of fuel  
19 carried.

20 (B) The plan shall specify the capacity of the largest fuel tank.

21 (d) An oil spill contingency plan for a facility shall also include,  
22 but is not limited to, all of the following provisions, as appropriate:

23 (1) Provisions for site security and control.

24 (2) Provisions for emergency medical treatment and first aid.

25 (3) Provisions for safety training, as required by state and federal  
26 safety laws for all personnel likely to be engaged in oil spill  
27 response.

28 (4) Provisions detailing site layout and locations of  
29 environmentally sensitive areas requiring special protection.

30 (5) Provisions for vessels that are in the operational control of  
31 the facility for loading and unloading.

32 (e) Unless preempted by federal law or regulations, an oil spill  
33 contingency plan for a railroad also shall include, but is not limited  
34 to, all of the following:

35 (1) A list of the types of train cars that may make up the consist.

36 (2) A list of the types of oil and petroleum products that may  
37 be transported.

38 (3) A map of track routes and facilities.

39 (4) A list, description, and map of any prestaged spill response  
40 equipment and personnel for deployment of the equipment.

1 (f) The oil spill contingency plan shall be available to response  
2 personnel and to relevant state and federal agencies for inspection  
3 and review.

4 (g) The oil spill contingency plan shall be reviewed periodically  
5 and updated as necessary. All updates shall be submitted to the  
6 administrator pursuant to this article.

7 (h) In addition to the regulations adopted pursuant to Section  
8 8670.28, the administrator shall adopt regulations and guidelines  
9 to implement this section. The regulations and guidelines shall  
10 provide for the best achievable protection of waters and natural  
11 resources of the state. The administrator may establish additional  
12 oil spill contingency plan requirements, including, but not limited  
13 to, requirements based on the different geographic regions of the  
14 state. All regulations and guidelines shall be developed in  
15 consultation with the Oil Spill Technical Advisory Committee.

16 (i) Notwithstanding subdivision (a) and paragraph (6) of  
17 subdivision (b), a vessel or facility operating where a spill could  
18 impact state waters that are not tidally influenced shall identify a  
19 rated OSRO in the contingency plan no later than January 1, 2016.

20 SEC. 6. Section 8670.31 of the Government Code is amended  
21 to read:

22 8670.31. (a) Each oil spill contingency plan required under  
23 this article shall be submitted to the administrator for review and  
24 approval.

25 (b) The administrator shall review each submitted contingency  
26 plan to determine whether it complies with the administrator's  
27 rules, policies, and regulations adopted pursuant to Section 8670.28  
28 and 8670.29. The administrator may issue a preliminary approval  
29 pending final approval or disapproval.

30 (c) Each contingency plan submitted shall be approved or  
31 disapproved within 30 days after receipt by the administrator. The  
32 administrator may approve or disapprove portions of a plan. A  
33 plan is not deemed approved until all portions are approved  
34 pursuant to this section. The disapproved portion shall be subject  
35 to the procedures contained in subdivision (d).

36 (d) If the administrator finds the submitted contingency plan is  
37 inadequate under the rules, policies, and regulations of the  
38 administrator, the plan shall be returned to the submitter with  
39 written reasons why the plan was found inadequate and, if  
40 practicable, suggested modifications or alternatives, if appropriate.

1 The submitter shall submit a new or modified plan within 30 days  
2 after the earlier plan was returned, responding to the findings and  
3 incorporating any suggested modifications. The resubmittal shall  
4 be treated as a new submittal and processed according to the  
5 provisions of this section, except that the resubmitted plan shall  
6 be deemed approved unless the administrator acts pursuant to  
7 subdivision (c).

8 (e) The administrator may make inspections and require drills  
9 of any oil spill contingency plan that is submitted.

10 (f) After the plan has been approved, it shall be resubmitted  
11 every five years thereafter. The administrator may require earlier  
12 or more frequent resubmission, if warranted. Circumstances that  
13 would require an earlier resubmission include, but are not limited  
14 to, changes in regulations, new oil spill response technologies,  
15 deficiencies identified in the evaluation conducted pursuant to  
16 Section 8670.19, or a need for a different oil spill response because  
17 of increased need to protect endangered species habitat. The  
18 administrator may deny approval of the resubmitted plan if it is  
19 no longer considered adequate according to the adopted rules,  
20 regulations, and policies of the administrator at the time of  
21 resubmission.

22 (g) Each owner or operator of a tank vessel, nontank *vessel*,  
23 vessel carrying oil as a secondary cargo, or facility who is required  
24 to file an oil spill response plan or update pursuant to provisions  
25 of federal law regulating oil spill response plans shall submit, for  
26 informational purposes only and upon request of the administrator,  
27 a copy of that plan or update to the administrator at the time that  
28 it is approved by the relevant federal agency.

29 SEC. 7. Section 8670.37.58 of the Government Code is  
30 amended to read:

31 8670.37.58. (a) A nontank vessel shall not enter waters of the  
32 state unless the nontank vessel owner or operator has provided to  
33 the administrator evidence of financial responsibility that  
34 demonstrates, to the administrator's satisfaction, the ability to pay  
35 at least three hundred million dollars (\$300,000,000) to cover  
36 damages caused by a spill, and the owner or operator of the nontank  
37 vessel has obtained a certificate of financial responsibility from  
38 the administrator for the nontank vessel.

39 (b) Notwithstanding subdivision (a), the administrator may  
40 establish a lower standard of financial responsibility for a nontank

1 vessel that has a carrying capacity of 6,500 barrels of oil or less,  
2 or for a nontank vessel that is owned and operated by California  
3 or a federal agency and has a carrying capacity of 7,500 barrels of  
4 oil or less. The standard shall be based upon the quantity of oil  
5 that can be carried by the nontank vessel and the risk of an oil spill  
6 into waters of the state. The administrator shall not set a standard  
7 that is less than the expected cleanup costs and damages from an  
8 oil spill into waters of the state.

9 *(c) A nontank vessel fee shall be submitted along with the*  
10 *application for the certificate, as required pursuant to Section*  
11 *8670.41.*

12 ~~(e)~~

13 *(d) The administrator may adopt regulations to implement this*  
14 *section.*

15 SEC. 8. Section 8670.54 of the Government Code is amended  
16 to read:

17 8670.54. (a) The Oil Spill Technical Advisory Committee,  
18 hereafter in this article, the committee, is hereby established to  
19 provide public input and independent judgment of the actions of  
20 the administrator. The committee shall consist of 14 members, of  
21 whom eight shall be appointed by the Governor, three by the  
22 Speaker of the Assembly, and three by the Senate—~~Rules~~  
23 ~~Committee~~. *Committee on Rules*. The appointments shall be made  
24 in the following manner:

25 (1) The Speaker of the Assembly and Senate Committee on  
26 Rules shall each appoint a member who shall be a representative  
27 of the public.

28 (2) The Governor shall appoint a member who has a  
29 demonstrable knowledge of marine transportation.

30 (3) The Speaker of the Assembly and the Senate Committee on  
31 Rules shall each appoint two members who have demonstrable  
32 knowledge of environmental protection and the study of  
33 ecosystems.

34 (4) The Governor shall appoint a member who has served as a  
35 local government elected official or who has worked for a local  
36 government.

37 (5) The Governor shall appoint a member who has experience  
38 in oil spill response and prevention programs.

39 (6) The Governor shall appoint a member who has been  
40 employed in the petroleum industry.



1 (7) The Governor shall appoint a member who has worked in  
2 state government.

3 (8) The Governor shall appoint a member who has demonstrable  
4 knowledge of the dry cargo vessel industry.

5 (9) The Governor shall appoint a member who has demonstrable  
6 knowledge of the railroad industry.

7 (10) The Governor shall appoint a member who has  
8 demonstrable knowledge of the oil production industry.

9 (b) The committee shall meet as often as required, but at least  
10 twice per year. Members shall be paid one hundred dollars (\$100)  
11 per day for each meeting and all necessary travel expenses at state  
12 per diem rates.

13 (c) The administrator and any personnel the administrator  
14 determines to be appropriate shall serve as staff to the committee.

15 (d) A chair and vice chair shall be elected by a majority vote of  
16 the committee.

17 SEC. 9. Section 8670.56.5 of the Government Code is amended  
18 to read:

19 8670.56.5. (a) A responsible party, as defined in Section  
20 8670.3, shall be absolutely liable without regard to fault for any  
21 damages incurred by any injured party that arise out of, or are  
22 caused ~~by~~ *by*, a spill.

23 (b) A responsible ~~person~~ *party* is not liable to an injured party  
24 under this section for any of the following:

25 (1) Damages, other than costs of removal incurred by the state  
26 or a local government, caused solely by any act of war, hostilities,  
27 civil war, or insurrection or by an unanticipated grave natural  
28 disaster or other act of God of an exceptional, inevitable, and  
29 irresistible character, that could not have been prevented or avoided  
30 by the exercise of due care or foresight.

31 (2) Damages caused solely by the negligence or intentional  
32 malfeasance of that injured party.

33 (3) Damages caused solely by the criminal act of a third party  
34 other than the defendant or an agent or employee of the defendant.

35 (4) Natural seepage not caused by a responsible party.

36 (5) Discharge or leaking of oil or natural gas from a private  
37 pleasure boat or vessel.

38 (6) Damages that arise out of, or are caused by, a discharge that  
39 is authorized by a state or federal permit.

1 (c) The defenses provided in subdivision (b) shall not be  
2 available to a responsible ~~person~~ *party* who fails to comply with  
3 Sections 8670.25, 8670.25.5, 8670.27, and 8670.62.

4 (d) Upon motion and sufficient showing by a party deemed to  
5 be *a* responsible *party* under this section, the court shall join to  
6 the action any other party who may be *a* responsible *party* under  
7 this section.

8 (e) In determining whether a party is a responsible party under  
9 this section, the court shall consider the results of chemical or other  
10 scientific tests conducted to determine whether oil or other  
11 substances produced, discharged, or controlled by the defendant  
12 matches the oil or other substance that caused the damage to the  
13 injured party. The defendant shall have the burden of producing  
14 the results of tests of samples of the substance that caused the  
15 injury and of substances for which the defendant is responsible,  
16 unless it is not possible to conduct the tests because of  
17 unavailability of samples to test or because the substance is not  
18 one for which reliable tests have been developed. At the request  
19 of a party, any other party shall provide samples of oil or other  
20 substances within its possession or control for testing.

21 (f) The court may award reasonable costs of the suit, attorneys'  
22 fees, and the costs of necessary expert witnesses to a prevailing  
23 plaintiff. The court may award reasonable costs of the suit and  
24 attorneys' fees to a prevailing defendant if the court finds that the  
25 plaintiff commenced or prosecuted the suit pursuant to this section  
26 in bad faith or solely for purposes of harassing the defendant.

27 (g) This section does not prohibit a person from bringing an  
28 action for damages caused by oil or by exploration, under any  
29 other provision or principle of law, including, but not limited to,  
30 common law. However, damages shall not be awarded pursuant  
31 to this section to an injured party for loss or injury for which the  
32 party is or has been awarded damages under any other provision  
33 or principle of law. Subdivision (b) does not create a defense not  
34 otherwise available regarding an action brought under any other  
35 provision or principle of law, including, but not limited to, common  
36 law.

37 (h) Damages for which responsible parties are liable under this  
38 section include the following:

39 (1) All costs of response, containment, cleanup, removal, and  
40 treatment, including, but not limited to, monitoring and

1 administration costs incurred pursuant to the California oil spill  
2 contingency plan or actions taken pursuant to directions by the  
3 administrator.

4 (2) Injury to, or economic losses resulting from destruction of  
5 or injury to, real or personal property, which shall be recoverable  
6 by any claimant who has an ownership or leasehold interest in  
7 property.

8 (3) Injury to, destruction of or loss of, natural resources,  
9 including, but not limited to, the reasonable costs of rehabilitating  
10 wildlife, habitat, and other resources and the reasonable costs of  
11 assessing that injury, destruction, or loss, in an action brought by  
12 the state, a county, city, or district. Damages for the loss of natural  
13 resources may be determined by any reasonable method, including,  
14 but not limited to, determination according to the costs of restoring  
15 the lost resource.

16 (4) Loss of subsistence use of natural resources, which shall be  
17 recoverable by a claimant who so uses natural resources that have  
18 been injured, destroyed, or lost.

19 (5) Loss of taxes, royalties, rents, or net profit shares caused by  
20 the injury, destruction, loss, or impairment of use of real property,  
21 personal property, or natural resources.

22 (6) Loss of profits or impairment of earning capacity due to the  
23 injury, destruction, or loss of real property, personal property, or  
24 natural resources, which shall be recoverable by any claimant who  
25 derives at least 25 percent of his or her earnings from the activities  
26 that utilize the property or natural resources, or, if those activities  
27 are seasonal in nature, 25 percent of his or her earnings during the  
28 applicable season.

29 (7) Loss of use and enjoyment of natural resources, public  
30 beaches, and other public resources or facilities, in an action  
31 brought by the state, a county, city, or district.

32 (i) Except as provided in Section 1431.2 of the Civil Code,  
33 liability under this section shall be joint and several. However, this  
34 section does not bar a cause of action that a responsible party has  
35 or would have, by reason of subrogation or otherwise, against a  
36 person.

37 (j) This section does not apply to claims for damages for  
38 personal injury or wrongful death, and does not limit the right of  
39 a person to bring an action for personal injury or wrongful death  
40 pursuant to any provision or principle of law.

(k) Payments made by a responsible party to cover liabilities arising from a discharge of oil, whether under this division or any other provision of federal, state, or local law, shall not be charged against royalties, rents, or net profits owed to the United States, the state, or any other public entity.

(l) An action that a private or public individual or entity may have against a responsible party under this section may be brought directly by the individual or entity or by the state on behalf of the individual or entity. However, the state shall not pursue an action on behalf of a private individual or entity that requests the state not to pursue that action.

(m) For purposes of this section, “vessels” means vessels as defined in Section 21 of the Harbors and Navigation Code.

SEC. 10. Section 8670.56.6 of the Government Code is amended to read:

8670.56.6. (a) (1) Except as provided in subdivisions (b) and (d), and subject to subdivision (c), a person, including, but not limited to, an oil spill cooperative, its agents, subcontractors, or employees, shall not be liable under this chapter or the laws of the state to any person for costs, damages, or other claims or expenses as a result of actions taken or omitted in good faith in the course of ~~rendering care, assistance, or advice in accordance with the National Contingency Plan, the California oil spill contingency plan, or at the direction of the administrator, onsite coordinator, or the Coast Guard in response to a spill or threatened spill.~~ *response efforts.*

(2) The qualified immunity under this section shall not apply to any ~~oil spill response action efforts~~ *that is are* inconsistent with the following:

(A) The directions of the unified command, consisting of at least the Coast Guard and the administrator.

(B) In the absence of a unified command, the directions of the administrator pursuant to Section 8670.27.

(C) In the absence of directions pursuant to subparagraph (A) or (B), applicable oil spill contingency plans implemented under this division.

(3) ~~Nothing in this section shall.~~ *This section does not,* in any manner or respect, affect or impair any cause of action against or any liability of any ~~person or persons~~ *party or parties* responsible for the spill, for the discharged oil, or for the vessel, terminal,

1 pipeline, or facility from which the oil was discharged. The  
2 responsible person or persons *party or parties* shall remain liable  
3 for any and all damages arising from the discharge, including  
4 damages arising from improperly carried out response efforts, as  
5 otherwise provided by law.

6 (b) ~~Nothing in this section shall.~~ *This section does not*, in any  
7 manner or respect, affect or impair any cause of action against or  
8 any liability of any party or parties responsible for the spill, or the  
9 responsible party's agents, employees, or subcontractors, except  
10 persons immunized under subdivision (a) for response efforts, for  
11 the discharged oil, or for the vessel, terminal, pipeline, or facility  
12 from which the oil was discharged.

13 (c) The responsible party or parties shall be subject to both of  
14 the following:

15 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,  
16 or any other law, be strictly and jointly and severally liable for all  
17 damages arising pursuant to subdivision (h) of Section 8670.56.5  
18 from the response efforts of its agents, employees, subcontractors,  
19 or an oil spill cooperative of which it is a member or with which  
20 it has a contract or other arrangement for cleanup of its oil spills,  
21 unless it would have a defense to the original spill.

22 (2) Remain strictly liable for any and all damages arising from  
23 the response efforts of a person other than a person specified in  
24 paragraph (1).

25 (d) ~~Nothing in this section shall.~~ *This section does not* immunize  
26 a cooperative or any other person from liability for acts of gross  
27 negligence or willful misconduct in connection with ~~the cleanup~~  
28 ~~of a spill.~~ *response efforts.*

29 (e) This section does not apply to any action for personal injury  
30 or wrongful death.

31 (f) As used in this section, a "cooperative" means an  
32 organization of private persons that is established for the primary  
33 purpose and activity of preventing or rendering care, assistance,  
34 or advice in response to a spill or threatened spill.

35 (g) Except for the responsible party, membership in a  
36 cooperative shall not be grounds, in and of itself, for liability  
37 resulting from ~~cleanup activities~~ *response efforts* of the cooperative.

38 (h) For purposes of this section, there shall be a rebuttable  
39 presumption that an act or omission described in subdivision (a)  
40 was taken in good faith.

1 (i) In any situation in which immunity is granted pursuant to  
2 subdivision (a) and a responsible party is not liable, is not liable  
3 for noneconomic damages caused by another, or is partially or  
4 totally insolvent, the fund provided for in Article 7 (commencing  
5 with Section 8670.46) shall reimburse, in accordance with its terms,  
6 claims of any injured party for which a person who is granted  
7 immunity pursuant to this section would otherwise be liable.

8 (j) (1) The immunity granted by this section shall only apply  
9 to response efforts that are undertaken after the administrator  
10 certifies that contracts with qualified and responsible persons are  
11 in place to ensure an adequate and expeditious response to any  
12 foreseeable oil spill that may occur in waters of the state for which  
13 the responsible party (A) cannot be identified or (B) is unable or  
14 unwilling to respond, contain, and clean up the oil spill in an  
15 adequate and timely manner. In negotiating these contracts, the  
16 administrator shall procure, to the maximum extent practicable,  
17 the services of persons who are willing to respond to oil spills with  
18 no, or lesser, immunity than that conferred by this section, but, in  
19 no event, a greater immunity. The administrator shall make the  
20 certification required by this subdivision on an annual basis. Upon  
21 certification, the immunity conferred by this section shall apply  
22 to all response efforts undertaken during the calendar year to which  
23 the certification applies. In the absence of the certification required  
24 by this subdivision, the immunity conferred by this section shall  
25 not attach to any response efforts undertaken by any person in  
26 waters of the state.

27 (2) In addition to the authority to negotiate contracts described  
28 in paragraph (1), the administrator may also negotiate and enter  
29 into indemnification agreements with qualified and financially  
30 responsible persons to respond to oil spills that may occur in waters  
31 of the state for which the responsible party (A) cannot be identified  
32 or (B) is unable or unwilling to respond, contain, and clean up the  
33 oil spill in an adequate and timely manner.

34 (3) The administrator may indemnify response contractors for  
35 (A) all damages payable by means of settlement or judgment that  
36 arise from response efforts to which the immunity conferred by  
37 this section would otherwise apply, and (B) reasonably related  
38 legal costs and expenses incurred by the responder, provided that  
39 indemnification shall only apply to response efforts undertaken  
40 after the expiration of any immunity that may exist as the result

1 of the contract negotiations authorized in this subdivision. In  
2 negotiating these contracts, the administrator shall procure, to the  
3 maximum extent practicable, the services of persons who are  
4 willing to respond to oil spills with no, or as little, right to  
5 indemnification as possible. All indemnification shall be paid by  
6 the administrator from the Oil Spill Response Trust Fund.

7 (4) (A) The contracts required by this section, and any other  
8 contracts entered into by the administrator for response,  
9 containment, or cleanup of an existing spill, or for response of an  
10 imminent threat of a spill, the payment of which is to be made  
11 from the Oil Spill Response Trust Fund created pursuant to Section  
12 8670.46, shall be exempt from Part 2 (commencing with Section  
13 10100) of Division 2 of the Public Contract Code and Article 6  
14 (commencing with Section 999) of Chapter 6 of Division 4 of the  
15 Military and Veterans Code.

16 (B) The exemption specified in subparagraph (A) applies only  
17 to contracts for which the services are used for a period of less  
18 than 90 days, cumulatively, per year.

19 (C) This paragraph shall not be construed as limiting the  
20 administrator's authority to exercise the emergency powers granted  
21 pursuant to subdivision (c) of Section 8670.62, including the  
22 authority to enter into emergency contracts that are exempt from  
23 approval by the Department of General Services.

24 (k) (1) With regard to a person who is regularly engaged in the  
25 business of responding to oil spills, the immunity conferred by  
26 this section shall not apply to any response efforts by that person  
27 that occur later than 60 days after the first day the person's response  
28 efforts commence.

29 (2) Notwithstanding the limitation contained in paragraph (1),  
30 the administrator may extend, upon making all the following  
31 findings, the period of time, not to exceed 30 days, during which  
32 the immunity conferred by this section applies to response efforts:

33 (A) Due to inadequate or incomplete containment and  
34 stabilization, there exists a substantial probability that the size of  
35 the spill will significantly expand and (i) threaten previously  
36 uncontaminated resources, (ii) threaten already contaminated  
37 resources with substantial additional contamination, or (iii)  
38 otherwise endanger the public health and safety or harm the  
39 environment.

1 (B) The remaining work is of a difficult or perilous nature that  
2 extension of the immunity is clearly in the public interest.

3 (C) No other qualified and financially responsible contractor is  
4 prepared and willing to complete the response effort in the absence  
5 of the immunity, or a lesser immunity, as negotiated by contract.

6 (3) The administrator shall provide five days' notice of his or  
7 her proposed decision to either extend, or not extend, the immunity  
8 conferred by this section. Interested parties shall be given an  
9 opportunity to present oral and written evidence at an informal  
10 hearing. In making his or her proposed decision, the administrator  
11 shall specifically seek and consider the advice of the relevant Coast  
12 Guard representative. The administrator's decision to not extend  
13 the immunity shall be announced at least 10 working days before  
14 the expiration of the immunity to provide persons an opportunity  
15 to terminate their response efforts as contemplated by paragraph  
16 (4).

17 (4) A person or their agents, subcontractors, or employees shall  
18 not incur any liability under this chapter or any other provision of  
19 law solely as a result of that person's decision to terminate their  
20 response efforts because of the expiration of the immunity  
21 conferred by this section. A person's decision to terminate response  
22 efforts because of the expiration of the immunity conferred by this  
23 section shall not in any manner impair, curtail, limit, or otherwise  
24 affect the immunity conferred on the person with regard to the  
25 person's response efforts undertaken during the period of time the  
26 immunity applied to those response efforts.

27 (5) The immunity granted under this section shall attach, without  
28 the limitation contained in this subdivision, to the response efforts  
29 of any person who is not regularly engaged in the business of  
30 responding to oil spills. A person who is not regularly engaged in  
31 the business of responding to oil spills includes, but is not limited  
32 to, (A) a person who is primarily dedicated to the preservation and  
33 rehabilitation of wildlife and (B) a person who derives his or her  
34 livelihood primarily from fishing.

35 ~~(f) As used in this section, "response efforts" means rendering~~  
36 ~~care, assistance, or advice in accordance with the National~~  
37 ~~Contingency Plan, the California oil spill contingency plan, or at~~  
38 ~~the direction of the administrator, United States Environmental~~  
39 ~~Protection Agency, or the Coast Guard in response to a spill or~~  
40 ~~threatened spill into waters of the state.~~



1 SEC. 11. Section 8670.59 of the Government Code is amended  
2 to read:

3 8670.59. (a) Any civil action brought pursuant to this chapter,  
4 or pursuant to Division 7.8 (commencing with Section 8750) of  
5 the Public Resources Code, shall be brought in the county in which  
6 the spill, discharge, or violation occurred, the county in which the  
7 principal place of business of the defendant is located, or the county  
8 in which the defendant is doing business in this state.

9 (b) (1) Notwithstanding any other provision of law, all criminal  
10 actions for the prosecution of misdemeanor violations of this  
11 chapter or Division 7.8 (commencing with Section 8750) of the  
12 Public Resources Code shall be commenced within one year from  
13 the date of the discovery of the facts or circumstances ~~which~~ *that*  
14 constitute the violation.

15 (2) Notwithstanding any other provision of law, all criminal  
16 actions for the prosecution of felony violations of this chapter or  
17 Division 7.8 (commencing with Section 8750) of the Public  
18 Resources Code shall be commenced within three years from the  
19 date of the discovery of the facts or circumstances ~~which~~ *that*  
20 constitute the violation.

21 (c) Notwithstanding any other provision of law, except as  
22 provided in subdivision (d), any action to recover civil damages  
23 or penalties shall be commenced within three years from the date  
24 of discovery of the facts or circumstances ~~which~~ *that* constitute a  
25 violation of this chapter or Division 7.8 (commencing with Section  
26 8750) of the Public Resources Code.

27 (d) Any action to recover civil damages or penalties pursuant  
28 to paragraph (3), (4), (5), (6), or (7) of subdivision ~~(g)~~ *(h)* of Section  
29 8670.56.5 because of effects on natural resources shall be  
30 commenced within five years from the date of the discovery of  
31 the facts or circumstances ~~which~~ *that* are the basis for the cause  
32 of action.

33 (e) Any action to compel the removal of oil or the restoration  
34 and rehabilitation of wildlife and wildlife habitat shall be  
35 commenced within five years from the date of discovery of the  
36 facts or circumstances ~~which~~ *that* constitute a violation of this  
37 chapter or Division 7.8 (commencing with Section 8750) of the  
38 Public Resources Code.

39 (f) For purposes of subdivisions (b), (c), (d), and (e), “date of  
40 discovery” means the actual date that facts sufficient to establish

1 that a violation of this chapter or Division 7.8 (commencing with  
2 Section 8750) of the Public Resources Code has occurred are  
3 discovered by a peace officer appointed pursuant to Section 851  
4 of the Fish and Game Code.  
5 (g) The administrator may adopt regulations prescribing  
6 procedures for the implementation of this section.

O